

- 4/4-4/7/91      Reading School Board borrows \$200,000 to meet payroll in face of possible \$11.7 million deficit
- U.S. Senator John Heinz (PA) killed in airplane collision
- Five live panel discussions with candidates for various offices, including county commissioner, district attorney and Reading mayor, to be telecast on Berks Community Television prior to primary election.
- 5/22-5/25/91      Primary elections held for county commissioner, district attorney, Reading mayor, city council and two judgeships
- Berks County voters overwhelmingly approve review of county charter
- 7/16-7/19/91      Redistricting to reduce Pennsylvania seats in U.S. House of Representatives
- US/USSR announce strategic nuclear arms reduction treaty (START)
- 3/11-3/14/92      State Supreme Court rules orders redistricting of District 6, consisting mostly of Berks and Schuylkill counties
- 1/18-1/24/93      William Clinton inaugurated as President of the United States
- 2/24-2/27/93      Bomb detonated in World Trade Center, killing seven and injuring hundreds
- 3/11-3/14/93      Blizzard drops 24 inches of snow on Reading in 48 hours, shutting down businesses and knocking out power
- 1/18-1/21/94      Earthquakes hit Berks County, followed by aftershocks
- Berks County buried under 16 inches of snow following major earthquake that rocked the county
- Gov. Casey asks large businesses to shut down to conserve electricity
- 22,000 residents of Western Berks County left without water or under orders to boil/ration water due to water main break thought to be earthquake-related

Snow emergency declared by Reading mayor

Reading man burned, hundreds forced out from homes after leaking gas line ignited by a light switch; gas officials blame snow, earthquake for leak

Temperature hits 21 degrees below zero, shattering 82 year-old record

3/11-3/14/94

Berks County declared eligible for winter disaster funds

4/4-4/7/94

Columbia University study identifies connection between Berks County earthquake and quarries, dams and mines

Berks County promised \$151 million to fund county highway projects

The record, including the program logs for composite week dates contemporaneous with these various stories, contains no indication that *any* of these matters was covered or discussed on Station WTVE(TV).

131. The station did broadcast some weather-related information, consisting of a tape of character-generated text broadcast for 30 seconds. Tr. 118-119. The tape was prepared at approximately 5:00 a.m., based on a weather service contacted by station personnel. Tr. 118. The tape was then broadcast at intervals of approximately an hour from 6 a.m. to 9 a.m. *See, e.g.*, Adams Exh. 6, pp. 80-81. <sup>35/</sup> Thus, the weather information was not current when broadcast, but could be as much as four hours old. Tr. 119.

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<sup>35/</sup> For some period of time the station also aired an updated (at approximately 1:00 p.m.) PSA of weather information later in the day. *See* Tr. 119; Adams Exh. 3, pp. 11-16 (1989-90 composite week log). However, the last evening weather PSA reflected in Adams's composite week analyses was broadcast on October 1, 1989.

132. The record does indicate that the station broadcast certain "weather emergency" PSA's in January, 1994, when Reading was in the grip of a major snow and ice storm. *See* RBI Exh. 8, Tab U, p. 39; Adams Exh. 7, pp. 30-33, 36-47. But even in the face of extreme weather conditions which led to water rationing arising from a water main break, roof cave-ins, treacherous travel, and rolling power blackouts, *see* Adams Exh. 7, pp. 36-47, RBI did not provide up-to-the-minute -- or even up-to-the-hour, or up-to-the-day -- announcements concerning developing weather conditions or weather-related news. Rather, the station simply taped two or three <sup>36/</sup> 30-second announcements advising viewers to exercise caution in light of the weather conditions then prevailing. RBI Exh. 8, Tab U, p. 39.

(b5) ***PROGRAM ORIENTATION CAPABILITIES***

133. According to David Kase, Assistant Chief Engineer of Station WTVE(TV), throughout the license term the station "did have the ability to air live programming, either from inside its studio or outside the studio." RBI Exh. 7. However, according to Mr. Bendetti, the station *never* had the ability to provide any live remote broadcasts from outside the station's studio because it lacked the necessary microwave equipment. Tr. 1735.

134. As for transmitting live programming from inside the station's studio, Mr. Bendetti acknowledged that the station had broadcast one live in-studio contest

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<sup>36/</sup> While the issues/programs report for the First Quarter, 1994, indicates that three PSA's were broadcast concerning the weather emergency, the affidavits of broadcast associated with that report include evidence of only two such PSA's. RBI Exh. 8, Tab U, pp. 135, 237.

drawing, once, for approximately two minutes, in 1989 or the beginning of 1990. *Id.*

However, the station "was not really set up to do it", and when the station's staff contemplated other local live programming, such as a bingo show or a call-in program, the station's chief engineer advised them that

we're really not equipped to go live from our studio. If we wanted to do that and we could get shows that like, he'd be willing to re-wire the place so that we could do it. But it would take us off the air for about two days.

Tr. 1736. As a result, the station's studio was utilized as a production facility, rather than as a live television studio.

135. The lack of program origination facilities, as opposed to program production facilities, prevented the station from providing live coverage of emergency situations such as the earthquake, weather conditions, and the like. Tr. 1737-1739. The station did not even have the ability to "crawl" textual announcements across the screen. Tr. 1738. The most the station could do when faced with an emergency was to prepare a short written text with the station's character generator, transfer the image so created onto a tape, and then insert the tape into a videotape player and run it. Tr. 1738.

## (2) **RBI'S RESPONSE TO COMPLAINTS FROM THE PUBLIC**

136. According to Mr. Bendetti, during the license term the station received numerous complaints from viewers. The complaints involved a number of programming-related areas. For example, the station received "a lot of phone calls" complaining about the station's broadcast of the Dr. Scott program. Tr. 1723. Viewers also criticized the station's failure to provide locally-oriented news programs. In fact, according to Mr. Bendetti, the lack of local news was "one of the biggest things I heard" during his

long tenure at the station. Tr. 1746-1747. *See also* Paragraph 55, above. And participants in the taping of a number of PSA's complained that the station was unable to advise them of the time at which their PSA's would be broadcast. Tr. 1746.

137. The record reflects that RBI took no action to address any of those complaints. RBI broadcast the Dr. Scott program nine hours per day for eight days in 1990, and then broadcast one-to-two hours of Dr. Scott programming on Sunday mornings from June, 1992 through the end of the license term. As discussed above, the station ran no locally-oriented news programs at all during the license term. *See* Paragraphs 47-51, above. And no one, either viewers or participants, was given any means (other than some vague kind of "word of mouth", according to Mr. Mattmiller, Tr. 592-593) to know when any particular PSA might be broadcast. *See* Tr. 472-476; 590-593.

(3) **RBI PUBLIC WITNESSES**

138. Pursuant to *Order*, FCC 99M-51, released September 14, 1999, RBI presented 17 "public witnesses" through deposition transcripts. RBI Exhs. 25-41.

(a) **WARREN HAGGERTY**

139. Mr. Haggerty was mayor of Reading during the license term. RBI Exh. 25, p. 4. He testified that he did not watch Station WTVE(TV). *Id.* at 6-7. He recalled in very general terms that he had participated in the taping of programming entitled "The Minute With The Mayor" and a PSA entitled "Working for a Greater Reading". *Id.* at 7, 11-12. However, as to the former, Mr. Haggerty could state only that "they, I guess,

aired those periodically. I don't know how it was actually aired." *Id.* at 7. <sup>37/</sup> He did not recall the "Working for a Greater Reading" PSA until reminded of it by counsel for RBI. *Id.* at 11-12. Counsel for RBI showed Mr. Haggerty other programming information and asked him whether he recalled any of a number of PSA's included in some excerpts from RBI's issues/programs lists. The most Mr. Haggerty could state was that "I guess I sort of remember something" about one of the listed PSA's. *Id.* at 12.

140. Mr. Haggerty did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(b) *SANDRA KISSINGER*

141. Ms. Kissinger was Youth Services Director, and later Communications Director, for the Berks County Chapter of the American Red Cross during a portion of the license term commencing at the end of October, 1991. RBI Exh. 26, p. 5. Ms. Kissinger testified that Station WTVE(TV) did broadcast a number of PSA's at the request of the Red Cross, including some relating to the Reading area. However, the PSA's broadcast by

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<sup>37/</sup> There is no record evidence that any programming entitled "The Minute With The Mayor" (or anything similarly titled) was broadcast during the license term. Moreover, testimony indicates that that programming was in any event short-lived. According to Mr. Bendetti, only two tapings of the "Minute With The Mayor" were completed, both in the station's production studios. Tr. 1681. After that, Mayor Haggerty indicated that, for his convenience, he would like the taping to occur in his office. Tr. 1681. However, because the station's staff was barred by Mr. Parker from producing non-paid public service programming outside the station's studio, the station's staff was not able to accommodate Mr. Haggerty's wishes, Tr. 1681, and no further tapings occurred. According to Mr. Bendetti, Mr. Parker was aware of this and expressed no concern about the termination of "Minutes With The Mayor". Tr. 1721.

the station were not limited to local matters. To the contrary, Ms. Kissinger stated that "most of the PSA's are derived from our National [Red Cross] Headquarters in Washington, D.C." *Id.*, p. 15.

142. Ms. Kissinger testified that Station WTVE(TV) cooperated with the Red Cross in broadcasting information about the organization and its activities. But she emphasized that other local media performed the same function. *Id.*, pp. 8 ("Not only did [Station WTVE(TV)] do that, but the other TV stations and newspapers did the same thing"); 17. She indicated that she did *not* think that the level of assistance provided by Station WTVE(TV) "was as much as the TV stations are doing now because they're into the news -- newsy end of it." *Id.*, p. 11.

143. Ms. Kissinger testified that she watched Station WTVE(TV) "occasionally, especially when I . . . knew that something was going to be on about Red Cross." *Id.*, p. 6. When asked how, in her view, Station WTVE(TV) served the needs and interests of Reading, she was able only to mention that the station provided assistance to the Red Cross. *Id.*, pp. 10-11. Ms. Kissinger did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(c) *LINDA WITMAN*

144. Ms. Witman is the Executive Director of the Berks County Chapter of the March of Dimes. RBI Exh. 27, p. 5. Ms. Witman testified that Station WTVE(TV) did broadcast a number of PSA's at the request of the March of Dimes, including some relating to the Reading area. However, the PSA's broadcast by the station were not

limited to local matters, but were occasionally provided by the National Office of the March of Dimes. *Id.*, p. 16.

145. During the license term, Ms. Witman "did not watch [Station WTVE(TV)] that often, maybe periodically, particularly when we were working with them, I admit, because they had things on television for us so we always made it a point to look and watch ourselves on television." *Id.*, p. 7.

146. Apart from the appreciation expressed for the station's cooperation with her organization, Ms. Witman did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(d) *PHYLLIS WATTS*

147. Ms. Watts is the Administrator of Children's Rights of Pennsylvania in Search of Missing Children. RBI Exh. 28, p. 5. She testified that during the license term Station WTVE(TV) had cooperated with her organization in the preparation and presentation of PSA's about missing children, including but not limited to presentations about some children from the station's service area. *Id.*, p. 12.

148. When asked what television programming she watched during the license term, Ms. Watts mentioned "Jeopardy", "Wheel of Fortune", "Home Shopping" and the news; she did *not* mention Station WTVE(TV). When asked whether the Home Shopping Network programming she watched was Station WTVE(TV) or a "cable version", she responded, "Channel 51 doesn't come in too well in Allentown", where Ms. Watts lives. *Id.*, pp. 6-7. Ms. Watts did opine that Station WTVE(TV)'s cooperation was



actually very good. In fact, they were the ones that contacted me and asked if they could show pictures of missing children, where even a lot of the newspapers don't want to give free time to do this.

*Id.*, pp. 11. She was unable to recall a "longer feature around Christmas time about missing children" because "especially around the holidays, you know, organizations and magazines are much more likely to call us and ask us for pictures. The spirit gets them."

*Id.*

149. Apart from the appreciation expressed for the station's cooperation with her organization, Ms. Watts did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(e) **RALPH TRAINER**

150. Mr. Trainer is the Executive Director of Abilities in Motion ("AIM"), which provides services to people with disabilities throughout Berks County. RBI Exh. 29, p. 5. During the license term he held the positions of Americans with Disabilities Act Coordinator and Peer Counselor for AIM, which was previously known as the Berks County Center for Independent Living. *Id.*, p. 6.

151. Mr. Trainer testified that, prior to his employment with AIM, Station WTVE(TV) "did a video of our organization". *Id.*, p. 7. Mr. Trainer described the broadcast of that "video" as follows: "they ran that, you know, on their, you know, scroll that they run on TV all the time for a period of time. And when they stopped -- I really don't know, you know, eventually when that stopped." *Id.*, pp. 7-8. He also testified that the station had produced and broadcast a number of PSA's in cooperation

with AIM. When asked to compare the assistance provided to his organization by Station WTVE(TV) to the assistance provided by other media outlets, Mr. Trainer stated that

I don't remember anyone from our staff saying that any of our requests was refused by basically any of our local media.

*Id.*, p. 13.

152. When asked whether he watched Station WTVE(TV) during the license term, he answered in the affirmative, adding

And that's one of the reasons I watched it, to see when they would run, you know, something about our organization. . . . I haven't watched it in awhile because we've wound up working more with Berk County Community Television lately, in the last few years . . .

*Id.*, p. 8.

153. Apart from the appreciation expressed for the station's cooperation with his organization, Mr. Trainer did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(f) **RAY M. SCHACHT**

154. Mr. Schacht, who also used the name "Carl Stewart" in his on-air appearances, RBI Exh. 30, p. 7, testified that he produced programming relating to the elderly which was broadcast on Station WTVE(TV). While he referred to the production and broadcast of a 30-minute program, *id.*, p. 6, the record contains no evidence of the broadcast of any such program during the license term. Mr. Schacht also testified that he was involved in the production of the "Concerns of the Elderly" PSA's broadcast by the

station. *Id.*, pp. 8-11. However, he could not state how often any of those PSA's was actually broadcast because "I don't know. I was not involved in programming, . . . scheduling." *Id.*, p. 11. Mr. Schacht was paid by RBI for his work on the programming for the elderly. *Id.*, p. 6.

155. Mr. Schacht did not testify that he ever watched Station WTVE(TV). When asked whether other broadcast stations in the Reading area provided any programming similar to that which he helped to produce, Mr. Schacht stated that he did not know because "I live closer to Allentown and I really don't listen to the media in Reading". *Id.*, p. 11.

156. Mr. Schacht did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(g) **JANE MEEKS SQUIBB**

157. Ms. Squibb is the Solid Waste Coordinator/Environmentalism for the City of Reading. RBI Exh. 31, p. 4. She testified that during the license term Station WTVE(TV) produced and broadcast a number of PSA's concerning recycling matters. *Id.*, p. 8. She indicated that she was associated with some, but not all, of those PSA's. *Id.*, p. 9. She became aware of the station through Mr. McCracken, who was her "boss" at the time. <sup>38/</sup>

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<sup>38/</sup> Ms. Squibb testified that her office "got involved" with the station through Mr. McCracken, which led to the broadcast of a number of PSA's concerning recycling during the period 1992-1994. *Id.*, pp. 7-8. Ms. Squibb stated that Mr. McCracken was  
(continued...)

158. When asked what television programming she watched during the license term, Ms. Squibb did not mention Station WTVE(TV) or "home shopping" programming at all. *Id.*, pp. 6-7. She did mention that she watched Station WTVE(TV), but "[o]nly when . . . our PSA's were to be shown. They gave us a time frame of when they were going to be on so we could try to pick those up." *Id.*, p. 8. She testified that she was interested in watching "governmental shows" and "any type of thing that goes on in the community", as well as news. *Id.* For such programming, however, she watched a local cable channel or a Philadelphia broadcast station. *Id.*, p. 7. She indicated that at least one local cable channel produced PSA's for her office, *id.*, p. 13, and her office hosted a monthly television show on one such channel, *id.*, p. 7.

159. Ms. Squibb did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(h) **STANLEY J. MCCARTY**

160. Mr. McCarty is a Crime Prevention Supervisor with the police. RBI Exh. 32, p. 4. He testified that Station WTVE(TV) broadcast some "crime stoppers" PSA's during the license term. *Id.*, pp. 9-11. However, he also stated that "I didn't work with [Station WTVE(TV)] with Crime Stoppers." *Id.*, p. 12. Mr. McCarty indicated that he had appeared on Station WTVE(TV) at least once, but could not recall the time period,

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<sup>38/</sup>(...continued)

"not involved, to my knowledge, with the TV station during that time. He was simply my boss." *Id.*, p. 12. But the record reflects that Mr. McCracken was a director of RBI from October, 1991 through the license term.

although he said that "that may have even been before 1989." *Id.*, p. 13. He provided no other testimony concerning any programming on the station.

161. With respect to television programming he watched during the license term, Mr. McCarty testified that he watched Sunday football games and a local cable channel which "carries not only my show but the other community interaction things, because I need to get stuff from there. The news." *Id.*, p. 6. Elaborating about the local cable channel, he said

. . . they scroll highlights, what's happening, community bulletin board kind of things and community shows. Like AARP would have a show. I would have a show. Humane Society has one. The community prevention partnership, who I deal with a lot, they have their own show. These are all interactive community things, which is -- pertains to what I do, so that's why I watch those.

*Id.*, p. 6. For news, Mr. McCarty also watched "NBC, ABC", "[w]hichever were the main stations at the time". *Id.*, p. 8. Asked whether he watched Station WTVE(TV), he responded "yes". *Id.* Asked what he watched on Station WTVE(TV), he indicated that he had watched it only while scanning through available programming:

Okay. Let me see what's going on there for awhile (indicating), than I go to the next one.

\* \* \*

Same thing I would do with anything else, you know. I'm not a big TV person, unless it deals with community.

*Id.*, p. 8.

162. Mr. McCarty did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(i) *THOMAS R. CALTAGIRONE*

163. Mr. Caltagirone is a member of the House of Representatives of the Commonwealth of Pennsylvania. RBI Exh. 33, p. 4. He testified that Station WTVE(TV) broadcast programs which he and other local representatives had produced in studios in Harrisburg, Pennsylvania. *Id.*, pp. 7-8. The programs were distributed to various television stations, for free, for their use. *Id.* Mr. Caltagirone testified that his program had been in production for 23 years and has been carried by the local Berks County cable system. *Id.*, pp. 33-45. He also testified that his program was carried on Station WTVE(TV). *Id.* While he testified that Station WTVE(TV) carried his program in the 1980s, *id.* p. 18, he did not identify any more current time periods and no programs were carried during the subject license term until the 1993-1994 period, when a concerted effort was made to beef up such programs for reasons unrelated to any purported effort to serve community needs. *See* Paragraphs 85-88, above. Mr. Caltagirone also testified that he had participated in the production of a number of PSA's at Station WTVE(TV). *Id.*, pp. 29-32. He stated that he recalled seeing those PSA's broadcast on Station WTVE(TV), but when asked whether he saw them regularly, he responded:

Yes. My wife used to tell me about them because, when she was watching the station and buying different things, she would comment about me being on there.

*Id.*, p. 11. This suggests that his familiarity with the broadcast of these PSA's on Station WTVE(TV) was based not on his own personal observation, but rather on comments made by his wife. *See also* Mr. Caltagirone's testimony quoted in the next paragraph.

164. When asked what television programming he himself watched during the license term, he responded, "sports and nature. . . . Nature type movies and gardening."

*Id.*, p. 6. He was further examined on this general topic:

Q: Did you watch -- at least spend some of your time watching television news coverage?

A: Yes. And my ex-wife. That and the buy channels, as I call them. The ad channels where they sell merchandise, you know.

Q: Did you watch Channel 51 during that time frame when they were telecasting Home Shopping Network as well as other stuff?

A: Yes. My wife did. My ex-wife did.

Q: Okay. When you wanted to see news, what stations did you watch?

A: Normally it would be the major stations; 3, 6, 8, 10 and once in awhile the local stations when they would have various interesting topics on, news topics.

Q: By local station are you talking about the cable station - - -

A: Yes. Cable station.

*Id.*, pp. 6-7. Mr. Caltagirone provided no further details concerning the extent, if any, that he ever watched Station WTVE(TV) or had any personal familiarity with the programming on the station during the license term.

165. Asked whether he would look to Philadelphia stations for "local breaking news coverage of Reading", he responded:

If there's some major significance the Philadelphia stations will cover it. Normally, today, Channel 5, which is operated out of Berks Cable TV, Channel 69, which is operated out of Allentown, . . . they have full-time crews that cover the news and they have dedicated news channels on our cable network. Sometimes Channel 8 out of Lancaster will cover stories in Berks County. Very seldom does Channel 6 out of Philadelphia or Channel 10 or Channel 3 cover much of Berks County news.

*Id.*, p. 35. He did not mention Station WTVE(TV).

166. Mr. Caltagirone expressed the view that television stations in other areas of Pennsylvania, including particularly the Philadelphia area, declined to broadcast the programs which he and other elected officials produced in Harrisburg. *E.g.*, *id.*, p. 22. He testified that that cable channel "air[s] all of these programs that we've discussed here today", and features as well "public access to for [sic] elected officials and shows. And then there's another dedicated channel, that's -- that's like the people's channel. . . . And they also do a lot of public shows." *Id.*, p. 34.

167. Mr. Caltagirone did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(j) **MONICA RUANO-WENRICH**

168. Ms. Ruano-Wenrich is currently the Director of Information Services of the United Way of Berks County; during the license term, she was the Volunteer Services Manager of that organization. RBI Exh. 34, pp. 4-5. She testified that Station WTVE(TV) produced and broadcast some PSA's on behalf of the United Way. *Id.*, pp. 9-11.

169. When asked what television programming she watched during the license term, Ms. Ruano-Wenrich did not mention Station WTVE(TV) or "home shopping". *Id.*, pp. 5-6. She did testify that she watched news shows. Asked what stations she would watch for her news, she responded, "Philadelphia stations for local news. And national news, Channel 6". *Id.*, p. 6. Since she lived in Chester County, she was not able to



receive Station WTVE(TV), and there is no indication in the record that she ever watched Station WTVE(TV). Ms. Ruano-Wenrich indicated that at least one radio station prepared PSA's for the United Way during the license term. *Id.*, p. 14.

170. Ms. Ruano-Wenrich did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(k) **RONALD ROUSE**

171. Mr. Rouse is a resident of Reading who was the editor and publisher of the *Minority Voice* newspaper. RBI Exh. 35, p. 9; RBI Exh. 6, p. 6. Mr. Rouse testified that he had some general recollection of having seen some religious programming, "talk segments", a calendar of events, and some weather on Station WTVE(TV). RBI Exh. 35, pp. 6-8. He also mentioned a program entitled "Minority Voices" in which he was involved which began "in 1994". *Id.*, p. 12. However, there is no record evidence that any such program aired during the license term.

172. When asked what television programming he watched during the license term, Mr. Rouse said it "would probably be news broadcasts, major events, perhaps some sporting events." *Id.*, p. 5. He said that "we would watch some of the religious programming" on Station WTVE(TV), although he was unable to identify any particular religious program. *Id.*, p. 6. Mr. Rouse testified that his wife "would always watch the Home Shopping Network", and that he would occasionally wake up "during the middle of the night and . . . the Home Shopping Network would be on." *Id.*, pp. 7-8. He did not provide any testimony about any specific programming during the license term.

173. Mr. Rouse did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(1) **RICHARD BENNETT**

174. Mr. Bennett is the Scout Executive of the Hawk Mountain Council of the Boy Scouts of America. RBI Exh. 36, p. 4. The Hawk Mountain Council includes Berks County. *Id.* He testified that Mr. Bendetti visited schools in the area to speak to students about broadcasting. *Id.*, p. 7. He also recalled that, at press conferences held for speakers at their programs, Station WTVE(TV) representatives interviewed the speaker, although he did not know if any such interviews were ever broadcast. *Id.*, pp. 9-10. He also recalled two PSA's which had been made by the National Boy Scout Council and distributed by the Boy Scouts to various stations; however, he specifically stated that he had not seen one of the two PSA's on Station WTVE(TV), and he offered no testimony about any possible broadcast of the other. *Id.*, pp. 11-12.

175. When asked what television programming he watched during the license term, Mr. Bennett responded "the news channels, some sports, various channels." *Id.*, p. 5. By "news channels", he meant "the Philadelphia stations" and "BCTV, the local, I have a program on there." *Id.*, p. 6. He could not state that he watched Station WTVE(TV) during the license term. *Id.*, p. 6 ("I couldn't really tell you if I really watched it or not at that time frame.").

176. Mr. Bennett did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming

service provided by the station to its service area.

(m) *DOUGLAS F. DIDYOUNG, SR.*

177. Mr. Didyoung was the Executive Director of Prisoners of War/Missing in Action, Forget-Me-Nots, Inc., which is a group seeking to find those missing from various wars, including World War II, Korea and Vietnam. RBI Exh. 37, p. 6. He testified that Station WTVE(TV) interviewed him "for minutes at a time" to promote his organization's activities. *Id.*, p. 8; *see also id.*, p. 12. He also recalled, without specificity, that the station ran "a number of videos" that were "rather lengthy". *Id.* He specifically mentioned a video entitled "Americans Abandoned" which he recalled having been broadcast on the station "somewhere in the early '90s", *id.*, p. 9 <sup>39/</sup>, and a "film" entitled "Welcome Home" which he saw on television a number of times, although he did not specifically identify Station WTVE(TV) as a station on which he saw it. *Id.*, p. 11. <sup>40/</sup> He also confirmed that he had sent a letter to Mr. Bendetti expressing Mr. Didyoung's appreciation for Mr. Bendetti's cooperation. *Id.*, p. 15. Mr. Didyoung stated that his organization had invited Station WTVE(TV) and Channel 69 to cover their annual ceremony, but he could not recall whether the station in fact covered the ceremony. *Id.*, pp. 12-13.

178. When asked what television programming he watched during the license

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<sup>39/</sup> The station's logs reflect that "Americans Abandoned" was broadcast on November 7, 1992, on Christmas Eve in 1992 and 1993 and on Christmas Day, 1993. Adams Exh. 2, Appendix A, pp. 48-49, 62.

<sup>40/</sup> There is no record evidence that "Welcome Home" was broadcast by Station WTVE(TV) at any time during the license term.

term, Mr. Didyoung stated "usually PBS programs, things that interested me, veterans' issues, that type of thing." *Id.*, p. 5. He watched news on "CNN, C-Span, that type of thing if I wanted to get in on government issues." *Id.* He could not recall what station(s) he watched for local news. *Id.* He testified that he was "familiar with [Station WTVE(TV)], but I used that mainly to help me do some public awareness stuff with my veterans' issues." *Id.*, pp. 5-6.

179. While Mr. Didyoung did compliment Mr. Bendetti's cooperation in assisting in the promotion of Mr. Didyoung's efforts, Mr. Didyoung did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(n) **JOAN BREISCH**

180. Ms. Breisch is the Executive Director of the Literacy Council of Reading-Berks, a non-profit organization which teaches adults to read, write, and in some cases speak English. RBI Exh. 38, pp. 4-5. Ms. Breisch testified that Station WTVE(TV) broadcast a number of PSA's concerning activities of the Literacy Council and another related organization. She could not give a "definite number" of the number of PSA's involved, but stated that "we might not have been on every year but at least every other year." *Id.*, p. 13. <sup>41/</sup> She also recalled seeing PSA's for the Humane Society featuring the Pets of the Week. *Id.*, p. 15. She testified that her organization's activities were also

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<sup>41/</sup> Ms. Breisch also recalled being invited to the station "to do like a 30-minute question and answer type thing." *Id.*, p. 13. However, she could not recall whether that occurred during the license term, *id.*, and the record contains no evidence that any such 30-minute program was broadcast during the license term.

promoted by BCTV and radio stations. *Id.*, p. 16.

181. When asked what television programming she watched during the license term, Ms. Breisch responded "things like sitcoms, news, particularly the weather, of course, but that was part of the news before we got the weather channel." *Id.*, p. 7.

Asked if she watched Station WTVE(TV), she responded:

Well, it was a Home Shopping Club station at that time, and occasionally I would watch it if I was flipping through, I must say. I wouldn't deliberately turn on the station just to watch that particular program. But there were times I would find things interesting, and I'd stay with it for awhile, maybe a half hour at a time and so forth.

*Id.*, p. 7.

182. While Ms. Breisch did indicate that "other people", including "friends, church members, whatever", *id.*, p. 12, would remark to her that they had seen her on television, Ms. Breisch did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or her own opinion of the programming service provided by the station to its service area.

(o) **DANIEL DILLARD**

183. Mr. Dillard is the Executive Director of the Burn Prevention Foundation, which serves the Reading area. RBI Exh. 39, pp. 3-4. He resides in Lehigh Valley, which is not in the Reading area. *Id.*, p. 3. Mr. Dillard testified that Station WTVE(TV) produced one 60-65 minute video about each of the 1990 and 1991 Concours D'Elegance, a classic car show which served as a fund-raising activity for the Burn Prevention Foundation. *Id.*, p. 5-6. The record reflects that the 1991 video was broadcast on the station on Christmas Eve, 1992 and Christmas Day, 1993, although Mr. Dillard was not

sure that the program was broadcast. Adams Exh. 2, Appendix A, pp. 49, 62; RBI Exh. 39, p. 10. According to Mr. Dillard, RBI did not charge his organization for the cost of producing those videos, but RBI did receive proceeds from the sale of the videos. *Id.*, p. 6, 13. The Burn Prevention Foundation presented Concours D'Elegance shows after 1991, but utilized a different organization for the production of videos of those shows which would be more marketable. *Id.*, pp. 8, 13-14. Mr. Dillard also confirmed that the station broadcast a number of PSA's relating to the Burn Foundation. Mr. Dillard expressed his gratitude for the consultation services provided to the Burn Prevention Foundation by the staff of Station WTVE(TV). *Id.*, p. 12.

184. Mr. Dillard does not watch Station WTVE(TV). *Id.*, pp. 3-4. He testified that his organization distributed promotional PSA's concerning the Concours d'Elegance to other local stations, and they may have carried such PSA's. *Id.*, p. 6.

185. Mr. Dillard did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.

(p) **MICHAEL O'PAKE**

186. Mr. O'Pake is an elected official representing the Berks County area in the Pennsylvania state legislature in Harrisburg. RBI Exh. 40, pp. 5-6. He testified that he produces a 30-minute program entitled "Report to the People" which is distributed to television stations. *Id.* He recalled that Station WTVE(TV) broadcast that program at "some period of time", but he could not recall when. *Id.* He also recalled being interviewed by the station "a couple of times", but again could not remember when. *Id.*,

p. 7. He believed that such interviews might have been conducted in connection with PSA's to be produced sometime in late 1994. <sup>42/</sup>

187. When asked what television programming he watched during the license term, Mr. O'Pake responded "mostly news, some late night talk shows, public service things." *Id.*, p. 4. For news programming, he watched "Philadelphia and Lancaster, Channel 3, 6, 8 and 10." *Id.*, p. 5. Asked whether he had occasion to watch Station WTVE(TV), he answered

If it was Home Shopping, not really. I don't watch the Home Shopping Channels.

*Id.* Asked about his familiarity with the non-home shopping programming of

Station WTVE(TV) during the license term, Mr. O'Pake responded:

I remember that during some period of time Channel 51 used to air the half-hour report to the people, which I film. But I don't remember when -- what time period that was.

*Id.*

188. Mr. O'Pake did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming

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<sup>42/</sup> Mr. O'Pake had no independent recollection of the time or circumstances of any interviews at the station. He was shown a one-page excerpt from the station's issues/programs list for the Third Quarter of 1994. *Id.*, pp. 7-8, 39. That excerpt included a description of conversations which Mr. Bendetti had with a "number of different political offices" to "introduce" those offices to a PSA entitled "For the People". Mr. O'Pake's office was among those said to have been contacted. According to the issues/programs list excerpt, "[b]ecause of their schedules, most said that they would be in touch with the station sometime late in '94 to discuss coming into the station to tape interview segments." *Id.*, p. 39. There is no record evidence indicating that any such interview segments featuring Mr. O'Pake were produced and/or broadcast during the license term.

service provided by the station to its service area.

(q) **FREDERICK C. WINDBECK**

189. Mr. Windbeck is the founder and Executive Director of the Switchback Gravity Railroad Foundation, the goal of which is to restore a gravity railroad which operated in the 19th Century in the area of what is now Jim Thorpe, Pennsylvania. RBI Exh. 41, pp. 5, 7-8, 11. He testified about the cooperation he received from Mr. Bendetti in the production of a short video promoting the efforts of the Foundation. *Id.*, pp. 8-10. He also mentioned assistance from Mr. Mattmiller. *Id.*, pp. 14-15. Mr. Windbeck confirmed Mr. Bendetti's testimony, Tr. 1768-1769, that Station WTVE(TV) was paid for the production services it provided. *Id.*, pp. 8-9.

190. Mr. Windbeck was not a resident of the Reading area during the license term. *Id.*, p. 5. He could not verify that the program about the gravity railroad was ever on Station WTVE(TV). *Id.*, p. 13. He was not aware if the program had been broadcast on other stations in the Reading area, but noted that "it would not surprise me if they were." *Id.*, p. 16.

191. Mr. Windbeck did not provide any testimony concerning the reputation of Station WTVE(TV) in the Reading community or his own opinion of the programming service provided by the station to its service area.



## (4) ADAMS PUBLIC WITNESSES

192. Pursuant to *Order*, FCC 99M-51, released September 14, 1999, Adams presented five "public witnesses".

## (a) JOHN LOOS

193. Mr. Loos is the Emergency Management Coordinator for Berks County; he is the head of the Office of Emergency Management Agency for the county. Adams Exh. 44, p. 6. In that position he coordinates the responses and recovery necessary in emergency and disaster situations. *Id.* This includes police, fire and ambulance services, as well as Red Cross, Salvation Army and state and local governmental assistance. *Id.*, p. 8. As part of his responsibilities, Mr. Loos is in contact with local broadcast stations in the Berks County area. *Id.*, pp. 9-10. Such contacts occur through activation of the Emergency Alert System. *Id.* Such contacts also occur by informal direct contacts initiated by stations seeking information about what Mr. Loos's office is "doing to prepare or what we have done during it or what happened after" emergencies or disasters. *Id.*

194. Mr. Loos testified during January, 1994, Reading and the surrounding area suffered the most powerful earthquake in Pennsylvania history and one of the most powerful ever on the east coast. *Id.*, p. 18. Moreover, he testified that immediately after the earthquake, Reading suffered a blizzard and extreme cold spell which caused a water main break, electrical brown-outs and black-outs, and other emergency conditions. *Id.*, pp. 23-27. According to Mr. Loos, "1994 was a hell of a year". *Id.*, p. 27. These events triggered involvement by the Emergency Management Agency. *Id.*, pp. 20-25. But according to Mr. Loos, the only contact he ever had with anyone from Station WTVE(TV)

occurred *after* these events. *Id.*, pp. 21-22, 27-28. That contact involved a request that Mr. Loos go to the station to participate in some "short spots on public safety". *Id.*, pp. 22, 23, 28. However, they "were not able to come up . . . with a date for their broadcast time", and no such spots were taped. *Id.*, p. 23.

195. Mr. Loos, who has resided in the Reading area since 1986, had no recollection of any coverage by Station WTVE(TV) of any local emergency. *Id.*, p. 28. He was generally aware that the station had broadcast some short programming about public safety in connection with the Red Cross, but he could not recall the time period during which that occurred. *Id.*, p. 33-34. He himself had no recollection of watching Station WTVE(TV) during the license term. *Id.*, p. 34.

(b) *LAWRENCE MEDAGLIA*

196. Mr. Medaglia is the elected Registrar of Wills and Clerk of the Orphans Court for Berks County. Adams Exh. 45, p. 5. He is a life-long resident of the Reading area. *Id.* From February, 1992 until January, 1996, he was the Administrative Supervisor of the District Attorney's Office in Berks County. *Id.*, p. 8.

197. Mr. Medaglia testified that, to the best of his knowledge Station WTVE(TV) did not broadcast any programming relating to the work of the Berks County District Attorney's Office. *Id.*, p. 13. Nor, according to Mr. Medaglia, did Station WTVE(TV) ever contact the District Attorney's Office concerning that Office's activities or make any effort to broadcast information about those activities during Mr. Medaglia's tenure there. *Id.*

198. Asked whether, during the license term, he ever watched

Station WTVE(TV), Mr. Medaglia responded, "never more than for a minute or two, but that was the extent of it in passing." *Id.*, p. 16. Asked what television coverage of local news and events he would watch, he referred to Channel 69 in Allentown, the Philadelphia media, or possible Channel 8 from Lancaster, "but there was nothing I can recall locally." *Id.*

199. Mr. Medaglia confirmed that a number of the governmental programs broadcast by RBI at the very end of the license term featured various political figures, some (but not all) of whom were local to the Berks County area. *Id.*, pp. 20-31. He was familiar with such programs because he had worked for a state representative in Harrisburg for a time, during which time "we produced shows . . . and brought them down here for distribution or airing on wherever we could get them on." *Id.*, p. 32. As a result, Mr. Medaglia had seen some of the programs, but not on Station WTVE(TV). *Id.*, p. 25. According to Mr. Medaglia, he saw those same shows on Channel 5 in Reading. *Id.* He was unaware that those shows were broadcast on Station WTVE(TV). *Id.* He also testified that Channel 8 in the Lancaster area and Channel 69 and one public broadcast station in the Lehigh area broadcast such legislative reports as well. *Id.*, p. 32.

(c) **JAMES TROUTMAN**

200. Mr. Troutman, a resident of Berks County for more than 25 years, has served in the elected position of Berks County Clerk of Courts since 1987. Adams Exh. 46, pp. 5-6. His official duties include maintaining all criminal records for Berks County; he has also regularly attended meetings of the Berks County Commissioners for more than a decade in order to be informed of the activities of the County government.

*Id.*, pp. 6-7.

201. Mr. Troutman did not recall ever seeing a camera from Station WTVE(TV) at any meeting of the Berks County Commissioners. *Id.*, p. 14. He did not recall being contacted at any time during the license term by any Station WTVE(TV) representative concerning the activities of the Berks County Commissioners or the office of the Clerk of Courts. *Id.*

202. According to Mr. Troutman, elections for Clerk of Courts are held every two years, and each election includes a primary. *Id.*, p. 14-16. In none of his elections has Mr. Troutman ever advertised on Station WTVE(TV), nor has he appeared on Station WTVE(TV) in any election-related programming, nor has the station to his knowledge ever provided any news coverage of any local, state or federal elections. *Id.*, p. 17.

203. During the license term, Mr. Troutman did not watch Station WTVE(TV). He stated that

I don't use any of the Home Shopping Networks. To the best of my knowledge, I did not [watch Station WTVE(TV)]. It doesn't mean that when I was channel surfing that I may not have stopped and looked there, but I have no recollection of doing that.

*Id.*, p. 18. For television coverage of news and events local to Reading during the license term, Mr. Troutman would watch Channel 8 out of Lancaster. *Id.*, p. 18.

204. Mr. Troutman confirmed that a number of the governmental programs broadcast by RBI at the very end of the license term featured various political figures, some but not all of whom were local to the Berks County area.